



STATE OF INDIANA

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December 23, 2015

Ms. Jimella Harris
4609 Woodlynn Court
Fort Wayne, Indiana 46816

*Re: Formal Complaint 15-FC-314; Alleged Violation of the Open Door Law by
the East Allen County Schools Board; Board President Chris Baker*

Dear Ms. Harris:

This advisory opinion is in response to your formal complaint alleging the East Allen County Schools Board ("Board") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et. seq.* The Board has responded via Counsel, Mr. Mark Scudder, Esq. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on November 20, 2015.

BACKGROUND

You attended a Board meeting on October 13, 2015. At this meeting, a planned vote was delayed in order that members "could get together" to discuss the expenditures on which a vote was to be taken. On October 27, 2015, Board members voted to pass the expenditures. You contend that communications at the meeting show the Board communicated outside of official meetings. You also allege improper communications took place regarding the agenda for school resource officers.

On December 10, 2015 counsel responded. Counsel acknowledges communications took place, but states that none of these communications constitutes a meeting under the ODL, because a majority of the Board was not present for these communications.

ANALYSIS

It is the intent of the Open Door Law (ODL) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. See Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public

agencies must be open at all times for the purpose of permitting members of the public to observe and record them. See Ind. Code § 5-14-1.5-3(a).

It is well settled and recognized a public governing body meeting behind closed doors to avoid Open Door Law requirements is not permitted. However, the Open Door Law is only triggered when a *majority* of a gathering body meets to discuss public business. *See Ind. Code § 5-14-1.5-2(c)*. Counsel notes communications took place but on a one-on-one basis. This would not constitute a “majority” of the Board and therefore the ODL is not implicated. A non-majority gathering may discuss public business outside of an open meeting, but its members of the Board should be mindful of the serial meeting provision of the ODL found at Ind. Code § 5-14-1.5-3.1. The Board should also be aware of the perception given when a governing body states its intention to gather outside of a public meeting. Although it may not be the Board’s intent to violate the Open Door Law, it may cause confusion and suspicion on the part of an interested member of the public.

CONCLUSION

Based on the forgoing, it is the Opinion of the Public Access Counselor the East Allen County Schools Board has not violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish extending from the bottom.

Luke H. Britt
Public Access Counselor

Cc: Mr. Mark Scudder, Esq.